KHAIRIL ANNAS JUSOH v. PESURUHJAYA TANAH PERSEKUTUAN & ORS

HIGH COURT MALAYA, KUALA LUMPUR
ROZ MAWAR ROZAIN J
[CIVIL SUIT NO: WA-22NCvC-690-12-2022]
30 SEPTEMBER 2025

Abstract – *(i) The parties' objective intention, evidenced through their conduct and correspondence, determines whether a binding contract exists. In this case, the acknowledgment in the revised offer of a sale and purchase of property, coupled with the acceptance of deposit and undertaking to update the agreement, demonstrates a clear contractual intent. There is a concluded contract despite the absence of a formal executed agreement reflecting the revised terms; (ii) A termination is rendered unlawful when it is found to be premature and done without proper notice and when there are no valid grounds for it.*

CONTRACT: *Termination – Breach – Sale and purchase of property – Whether binding contract formed between parties – Whether there was fundamental breach of specific contractual obligations – Whether there was concluded contract reflecting revised terms – Whether termination premature and unlawful – Whether general damages ought to be awarded to aggrieved party*

This case presented fundamental questions of contract law, particularly regarding the formation and termination of agreements for the sale of Government land, involving a bungalow lot ('land') with a transaction value that was revised from RM395,550 to RM237,330. The plaintiff, a former advisor to the sixth Prime Minister of Malaysia, contended that a valid agreement was formed through his acceptance and partial performance *via* deposit payment. The defendants argued that no concluded contract existed due to alleged failure to complete essential formalities. *Vide* a letter of offer dated 28 August 2017 issued by the third defendant to the plaintiff, the land was offered for sale for the purchase price of RM395,550. This initial offer by the third defendant was accepted by the plaintiff, who signed the confirmation of acceptance letter on 6 September 2017. The plaintiff issued a cheque on the same date for the 10% deposit in the amount of RM39,555. The Government of Malaysia issued an official receipt for the cheque that detailed it was for the sale of Government land. There was an undated sale and purchase agreement executed by the first defendant as the vendor of the land and the plaintiff as its buyer ('initial SPA'). The plaintiff testified that the initial SPA was executed and returned to the defendants in 2017, shortly after the offer was accepted and the 10% deposit was paid. The plaintiff had

A fulfilled all the terms of the letter of offer dated 28 August 2017. The purchase price for the initial SPA was stated as RM395,550. A few months after the initial offer, in December 2017, there was a revised offer of the land for the purchase price of RM237,330. The revised offer for the land was made on 13 December 2017. The third defendant issued a revised offer of
B the land to the plaintiff. With the new offer of a lower purchase price than before, the terms were the same as the letter of offer dated 28 August 2017. The revised letter of offer confirmed that the excess of the 10% deposit already paid by the plaintiff would go towards the purchase of the land with the new revised price. The third defendant undertook that the initial SPA
C would be updated with the new purchase price. The offer letter dated 28 August 2017 was deemed void. On 18 December 2017, the plaintiff accepted the revised offer and confirmed the same *vide* the acceptance letter dated 18 December 2017. Since there was confirmation by the third defendant (*vide* its revised letter of offer dated 13 December 2017) that the initial offer was void and superseded by the revised offer, then the deadline
D to pay the 90% balance of the purchase price of the land was 18 December 2019. The third defendant issued a letter to the plaintiff on 28 May 2018 that stated it attached a sale and purchase agreement executed by the first defendant for the attention and further action of the plaintiff. According to the letter, the first defendant had already pre-signed the sale and purchase
E agreement. The plaintiff was to execute and stamp the said sale and purchase agreement and return it. There was no deadline as to when the plaintiff was required to return the duly executed and stamped sale and purchase agreement. There were no subsequent correspondences or evidence of any follow-up letters or communications between May 2018 and the termination
F decision in May 2019. On 20 December 2019, the first defendant terminated the revised offer, alleging that the plaintiff did not return the executed and stamped sale and purchase agreement forwarded to him with the letter of 28 May 2019. The defendant submitted that the termination was because (i) the 90% balance of the purchase price was not paid on 6 September 2019.
G The defendants had taken the position that the two-year period to settle the purchase price was from the date of the receipt of the initial offer, which was on 6 September 2017; and (ii) the plaintiff had not returned the executed stamped sale and purchase agreement and that in the defendants' records, there was only the initial SPA. The plaintiff was asked to produce the official receipt, his identity card and the bank statement to enable the return of the
H deposit paid by the plaintiff. The plaintiff, however, testified that he had not received the letter of termination. The issues that arose were (i) whether a valid and binding contract was formed between the parties; (ii) whether the defendants had breached their contractual obligations; and (iii) whether the purported termination was unlawful and invalid.

I

Held (allowing plaintiff's claim):

(1a) There was an offer and an acceptance. The third defendant's letter dated 28 August 2017 constituted a clear offer with defined terms. The plaintiff's acceptance letter dated 6 September 2017, accompanied by payment of the 10% deposit of RM39,555, constituted unequivocal acceptance. There was consideration. The plaintiff provided valuable consideration through payment of RM39,555 as evidenced by the official receipt issued by the Government of Malaysia. There was an intention to create legal relations. The formal nature of the transaction, involving Government land and official documentation, clearly demonstrated the parties' intention to create legal relations. The initial SPA was evidence of the parties' formalising their binding contractual arrangement. (paras 24-26)

(1b) The revised offer dated 13 December 2017 created a superseding contract. The revised letter of offer explicitly acknowledged the execution of the initial SPA, stating that the agreement 'will be updated based on the new purchase price'. This constituted an admission by the defendants of the existence of a binding contract. There was a concluded contract despite the absence of a formal executed agreement reflecting the revised terms. The parties' objective intention, evidenced through their conduct and correspondence, determined whether a binding contract existed. Here, the defendants' own acknowledgment in the revised offer, coupled with their acceptance of the deposit and undertaking to update the agreement, demonstrated clear contractual intent. (paras 27 & 28)

(2a) The defendants failed to honour their express undertaking in the revised offer to update with a new sale and purchase agreement with the lower revised purchase price. This constituted a fundamental breach of their own stated obligation. On a balance of probabilities, the defendants had not shown that they had forwarded the updated sale and purchase agreement with the letter of 28 May 2018. This was not merely a procedural oversight but a fundamental breach of a specific contractual obligation. The defendants had bound themselves to update the initial SPA to reflect the revised purchase price of RM237,330. Their failure to do so constituted a repudiatory breach going to the root of the revised contract. (para 29)

(2b) The defendants' failure to implement proper delivery procedures for the 28 May 2018 letter, including the absence of acknowledgment requirements and use of different addresses, demonstrated negligent administration inconsistent with their statutory duties under the Federal Lands Commissioner Act 1957. The first defendant (and also the second and third defendants, for that matter) owed heightened

duties of care and procedural fairness in its dealings with members of the public. The absence of any acknowledgment system that could assist in the finding of facts or even resolve this matter, the address inconsistencies when it was sent to a different address than stated in the initial SPA without verification, the lack of follow-up procedures despite the alleged importance of the documents – all led to conclude the weakness of the defendants' defence to the plaintiff's case which had established the valid formation of a contract and the clear, unambiguous contractual obligations that the defendants have obviously failed to carry out. (para 29)

(2c) The evidence established that the termination decision was made on 17 May 2019, months before any alleged breach by the plaintiff could have occurred. This demonstrated the defendants' bad faith and undermined their subsequent justifications. The defendants' termination was both premature and conducted in breach of contractual requirements. On this point, the defendants' position that the deadline to settle fully the balance of purchase price was 6 September 2019, was erroneous. The defendants' revised offer superseded the initial offer, thus, the deadline to settle the balance of the purchase price in full was 18 December 2019. In any event, the defendants were still in error as the termination decision was made on 17 May 2019 which was still months before any deadline. This premature termination demonstrated that the stated reasons for termination were mere afterthoughts. (para 29)

(3) The termination was unlawful and invalid on multiple grounds: (i) the defendants did not provide reasonable notice to the plaintiff before termination. The 20 December 2019 letter was sent seven months after the termination decision and was never received by the plaintiff. Termination without proper notice rendered it unlawful; (ii) the termination preceded the due date for performance by approximately seven months (using the revised offer deadline of 18 December 2019) or four months (using the original deadline of 6 September 2019). A party could not terminate for non-performance before the performance deadline; (iii) the defendants pleaded that the reason for termination was the plaintiff's failure to return a duly executed sale and purchase agreement forwarded to the plaintiff on 28 August 2017, which was only returned on 6 August 2020. This was erroneous because, as of 28 August 2017, it was the initial offer and not the revised offer made on 13 December 2017 that was accepted on 18 December 2017 which superseded that initial agreement. There were thus no valid grounds for the termination. (para 30)

(4) Applying s. 101 of the Evidence Act 1950, the plaintiff had discharged the burden of proving contract formation through documentary evidence of offer, acceptance and consideration, the defendants' own admissions in the revised offer and contemporaneous official receipts confirming payment. The defendant's failure to produce the allegedly unsigned agreement, despite requests for discovery, fatally undermined their case. The defendants' conduct fell short of the standards expected of a statutory body entrusted with Government land transactions. (paras 31-33)

(5) The plaintiff's pleaded 'loss of enjoyment of the subject property' represented his claim for expectation damages arising from the breach. In the absence of market valuation evidence, this court must determine damages based on the available evidence. The contractual price of RM237,330 under the revised contract represented the agreed value between the parties. The plaintiff had been deprived of the opportunity to acquire property worth RM237,330 due to the defendants' wrongful breach. The plaintiff's legitimate expectation was that he would obtain ownership of the land for the agreed revised price, as evidenced by his payment of deposit and acceptance of the revised offer. Hence, this court awarded general damages of RM237,330 to compensate the plaintiff for his loss arising from the defendants' breach of contract. (paras 41-47)

Case(s) referred to:
Branca v. Cobarro [1947] 1 KB 854 ***(refd)***
Carlill v. Carbolic Smoke Ball Company [1893] 1 QB 256 ***(refd)***
Charles Grenier Sdn Bhd v. Lau Wing Hong [1997] 1 CLJ 625 FC ***(refd)***
Cipta Cermat Sdn Bhd v. Perbandaran Kemajuan Negeri Kedah [2007] 1 CLJ 498 CA ***(refd)***
Iftikar Ahmed Khan v. Perwira Affin Bank Bhd [2018] 1 CLJ 415 FC ***(refd)***
Masters v. Cameron (1954) 91 CLR 353 ***(refd)***
Miller v. Minister of Pensions [1947] 2 All ER 372 ***(refd)***
Penang Development Corporation v. Khaw Chin Boo & Anor [1993] 3 CLJ 167 HC ***(refd)***
Ramakrishnan Chelliah v. Lotte Chemical Titan Holding Bhd & Anor [2020] CLJU 1701 [2020] 1 LNS 1701 HC ***(refd)***
Ranggong Jenau & Ors v. BLD Resources Sdn Bhd & Ors And Another Case [2017] CLJU 2164; [2017] 1 LNS 2164 CA ***(refd)***
Steadman v. Steadman [1974] 2 All ER 977 ***(refd)***
Summit Domain Sdn Bhd & Anor v. Carillon Sdn Bhd [2018] 5 CLJ 603 HC ***(refd)***
U Television Sdn Bhd & Anor v. Comintel Sdn Bhd [2017] 10 CLJ 580 FC ***(refd)***
Von Hatzfeldt-Wildenburg v. Alexander [1912] 1 Ch 284 ***(refd)***

Legislation referred to:
Contracts Act 1950, ss. 47, 74(1)
Evidence Act 1950, s. 101

For the plaintiff - Zamri Idrus & Phoebe Loi Yean Wei; M/s Thomas Philip
For the defendants - Muhammad Izzhar Aiman Hamdan; AG's Chambers

Reported by Suhainah Wahiduddin

A

JUDGMENT

Roz Mawar Rozain J:

[1] This suit concerns a contractual dispute arising from the sale and purchase of Federal land in Putrajaya between a former Senior Government advisor and the Federal Lands Commissioner. The case presents fundamental
B questions of contract law, particularly regarding the formation and termination of agreements for the sale of Government land, involving a bungalow lot at Lot 2311, Presint 15, Putrajaya (the land) with a transaction value that was revised from RM395,550 to RM237,330. The chronological span extends from August 2017 to July 2020, encompassing
C the plaintiff's acceptance of offers, payment of deposit, and ultimately an unexpected termination decision made in May 2019 but only communicated in July 2020.

[2] The dispute centres on competing narratives about whether a binding contractual relationship existed between the parties and, if so, whether its
D termination was justified. The plaintiff, a former advisor to the sixth Prime Minister of Malaysia, contends that a valid agreement was formed through his acceptance and partial performance *via* deposit payment. The defendants argue that no concluded contract existed due to alleged failure to complete essential formalities. The matter proceeded to a full trial with evidence from
E the plaintiff and the defendants' witness, En Azri Effendy bin Abu Sujak (DW1), raising important questions about the application of contract law principles to Government land transactions and the obligations of statutory bodies in such dealings, which this court is tasked to determine.

F **The Evidence**

[3] The evidence before this court consists of documentary evidence and oral testimony from two witnesses. The evidence establishes an initial offer and acceptance in 2017. *Vide* a letter offer dated 28 August 2017 issued by the third defendant to the plaintiff, the land was offered for the purchase price
G of RM395,550. The terms of the initial offer stated are:

(i) the plaintiff was to return his acceptance of the offer within 14 days of receiving the letter of offer;

(ii) the sale and purchase agreement must be executed within 30 days of the date of acceptance;

H

(iii) the additional costs and the 10% deposit of the purchase price were to be paid by the plaintiff within 30 days of the date of the execution of the sale and purchase agreement; and

(iv) the balance of 90% of the purchase price was to be paid by the plaintiff
I within two years from the date of the payment of the 10% deposit.

[4] This initial offer by the third defendant was accepted by the plaintiff. He had signed the confirmation of acceptance letter on 6 September 2017. The plaintiff has issued a cheque on the same date for the 10% deposit in the amount of RM39,555. The Government of Malaysia had issued an official receipt for the cheque that detailed it was for the sale of Government land.

[5] There is an undated sale and purchase agreement executed by the first defendant as the vendor of the land and the plaintiff as its buyer (the initial SPA). The plaintiff testified that the SPA was executed and returned to the defendants in 2017, shortly after the offer was accepted and the 10% deposit was paid. The defendants disputed the fact. However, the purchase price for the SPA is stated as RM395,550. Under four months after the initial offer, in December 2017, there was a revised offer of the land for the purchase price of RM237,330. Significantly, paras. 6 and 7 acknowledged the execution of the initial SPA:

> Jabatan ini juga mengambil maklum yang YBhg Datuk Seri Profesor Dr telah pun menandatangani perjanjian jual beli dan menjelaskan bayaran sepuluh peratus (10%) sebanyak RM39,555.00 pada 6 September 2017. Sekiranya YBhg Datuk Seri Professor Dr. bersetuju dengan tawaran ini, perjanjian tersebut akan dikemaskini berdasarkan harga belian yang baru.
>
> Manakala bayaran deposit yang telah dijelaskan sebelum ini akan disusun semula di mana RM23,733.00 sebagai bayaran deposit (10%) dan selebihnya iaitu RM15,822.00 dijadikan sebahagian bayaran baki jualan.

[6] Thus, before this court, it is evidence that the plaintiff had fulfilled all the terms of the letter of offer dated 28 August 2017.

[7] Although the plaintiff pleaded and testified that the initial SPA was executed on 28 May 2018, this court rejects that position because the evidence from the plaintiff himself was that he was elated that the purchase price was revised to a lower amount (PSSP1, answer to question 10):

> Malah berasa gembira, dihargai jasa saya terhadap Kerajaan dan amat bersyukur kepada Allah SWT, saya ada mengeluarkan satu surat setuju terima bertarikh 18 December 2017 kepada Defendan Pertama untuk mengesahkan persetujuan dan penerimaan saya terhadap Tawaran yang Dikemaskini tersebut.

[8] From the observation of the plaintiff when testifying and in court during trial, this court concludes on a balance of probabilities that he would not have executed a sale and purchase agreement with the higher initial price for the land. When prodded in the examination of the plaintiff, he confirmed that the initial SPA was executed in 2017. Thus, with the documentary evidence, it is on a balance of probabilities that the initial SPA that sealed the agreement on the initial offer price was executed before the revised offer. Moreover, the first defendant himself would not have executed the same

A when the third defendant had officially offered a lower price with the revised offer in December 2017. It also goes against the following documentary evidence:

(i) the initial SPA that incorporated the initial price. This meant that the initial SPA was executed pursuant to the offer of 28 August 2017 that
B was accepted on 6 September 2017;

(ii) the third defendant's revised offer for a lower price with an undertaking to accept the excess of the 10% deposit payment (as the amount was now much less due to the lower revised purchase price) as part of the
C payment for the balance of the revised purchase price. This places the initial SPA before the defendants' revised offer; and

(iii) the letter of the revised offer stated that it would forward an updated sale and purchase agreement with the newly revised purchase price, indicating that the initial SPA had been executed at that point.

D **[9]** Moreover, the plaintiff's evidence, borne out of his cross-examination, is that the sale and purchase agreement he had signed was returned to the defendants in 2017. This inevitably refers to the initial SPA.

[10] The revised offer for the land was made on 13 December 2017. The
E third defendant issued a revised offer of the land to the plaintiff. With the new offer of a lower purchase price than before, the terms were the same as the letter of offer dated 28 August 2017. The revised letter of offer confirmed that the excess of the 10% deposit already paid by the plaintiff will go towards the purchase of the land with the new revised price. The third defendant undertook that the initial SPA would be updated with the new
F purchase price. The offer letter dated 28 August 2017 was deemed void.

[11] Five days later on 18 December 2017, the plaintiff accepted the revised offer and confirmed the same *vide* the acceptance letter dated 18 December 2017. What must be borne in mind is the deadline for the settlement of the balance of purchase price. If the initial offer terms are to
G be based on, then it would be 6 September 2019. Since there was confirmation by the third defendant (*vide* its revised letter of offer dated 13 December 2017) that the initial offer is void and superseded by the revised offer, then the deadline to pay the 90% balance of the purchase price of the land was 18 December 2019.

H **[12]** The third defendant issued a letter to the plaintiff on 28 May 2018, that stated it attached a sale and purchase agreement executed by the first defendant for the attention and further action of the plaintiff. According to the letter, the first defendant had already pre-signed the sale and purchase agreement. The plaintiff was to execute and stamp the said sale and purchase
I agreement and return it. There was no deadline as to when the plaintiff was required to return the duly executed and stamped sale and purchase

agreement. This letter of 28 May 2018 was addressed to the plaintiff as advisor to the Prime Minister, Aras 12, Blok Tengah, Kompleks Kementerian Kewangan, No. 5 Persiaran Perdana, Presint 2, Putrajaya. DW1 could not confirm whether this letter of 28 May 2018 was actually received by the plaintiff.

[13] The plaintiff was not asked on the receipt of this letter and the attached sale and purchase agreement. DW1 echoed the defendants' contention that the sale and purchase agreement was returned unsigned by the plaintiff on 6 August 2020. However, that said unsigned sale and purchase agreement was not adduced. The plaintiff has sought discovery and disclosure of the same before the pleadings were closed and before the trial began, but the defendants have failed to produce it. Until the end, this court was not afforded the opportunity to see and consider it.

[14] It is noted that the letter dated 28 May 2018 contained no requirement for acknowledgment of receipt, despite enclosing what was purported to be an executed sale and purchase agreement already pre-signed by the first defendant. There is a Government practice deficiency because, as a statutory body dealing with substantial property transactions, the procedural failure could not assist the defendants to establish the fact that it was delivered and received by the plaintiff at all.

[15] DW1's evidence is that the unsigned sale and purchase agreement was based on the initial offer and not the revised agreement, which superseded the former. There was much ado, many arguments, and conflicting narratives as to this sale and purchase agreement attached to the third defendant's letter of 28 May 2018. This court is not inclined to believe that Government officers and departments like the defendants would have made such a fatal mistake in dealing with Government land. What is more probable in this case is the blurred recollections of witnesses' memories, as there was no contemporaneous (or otherwise) documentary evidence adduced. On a balance of probabilities, based on logic, common sense, and reason, it is this court's view that the sale and purchase agreement forwarded five months after the revised offer was accepted, which expressly superseded the initial agreement, would incorporate the new amount. This is premised on the chronology of the documentary evidence adduced. Especially so when to update the sale and purchase agreement incorporating the revised amount was an undertaking by the defendants that they would do. This further cements this court's earlier conclusion that the initial SPA, which is the only sale and purchase agreement adduced in this case, relates to the initial agreement, not the revised offer and acceptance of December 2017.

[16] There were no subsequent correspondences or evidence of any follow-up letters or communications between May 2018 and the termination decision in May 2019. There was no inquiry into the non-response. Despite

A the alleged importance of the stamping and return requirements, the defendants made no inquiries when no response was received. The defendants adopted a purely passive stance, making no effort to ensure the plaintiff had received or understood the requirements.

B **[17]** The termination came in the form of a letter from the first defendant dated 20 December 2019. This time, the address of the plaintiff was the same as stated in the initial SPA. It terminated the revised offer, alleging that the plaintiff did not return the executed and stamped sale and purchase agreement forwarded to him with the letter of 28 May 2019. The first defendant stated therein that the decision to terminate was made at a meeting C on 17 May 2019. The plaintiff was asked to produce the official receipt, his identity card, and the bank statement to enable the return of the deposit paid by the plaintiff.

[18] The plaintiff testified that he had not received the letter of termination dated 20 December 2019. This was the other document that the plaintiff had D sought discovery and disclosure for. It proved that the first time the plaintiff had sight of it was at trial.

[19] In the examination-in-chief of DW1, the termination was because the 90% balance of the purchase price was not paid on 6 September 2019. The E defendants had taken the position that the two-year period to settle the purchase price was from the date of the receipt of the initial offer, which was on 6 September 2017. The second reason was hinged on the allegation that the plaintiff had not returned the executed stamped sale and purchase agreement. He claimed that in the defendants' records, there was only the initial SPA.

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[20] Later, during his cross-examination, DW1 admitted that the decision to terminate was made on 17 May 2019, well before the due date of the payment for the balance of the purchase price for the land.

[21] The final and only other document produced at trial is a letter dated G 17 July 2020 from the third defendant titled as the second notice to the plaintiff. It referred to the first notice of termination dated 20 December 2019. It reiterated the decision made at the meeting on 17 May 2019 to terminate the offer to sell the land to the plaintiff. It also reminded him to produce the relevant documents for the return of the deposit paid. Again, this H letter was addressed to the plaintiff, which address was the same as stated in the initial SPA.

[22] The plaintiff's deposit is still with the defendants. According to DW1, the unsigned and unstamped sale and purchase agreement was returned by the plaintiff on 6 August 2020. However, it was not produced. The plaintiff had I issued a notice seeking disclosure. Thus, there is no evidence to sustain the defendants' contention for a fact.

This Court's Analysis and Findings

Formation Of Valid And Binding Contract

[23] This court finds that a valid and binding contract was formed between the parties. The evidence establishes all essential elements of contract formation under the Contracts Act 1950.

[24] There was an offer and an acceptance. The third defendant's letter dated 28 August 2017 constituted a clear offer with defined terms. The plaintiff's acceptance letter dated 6 September 2017, accompanied by payment of the 10% deposit of RM39,555, constituted unequivocal acceptance. The principle in *Carlill v. Carbolic Smoke Ball Company* [1893] 1 QB 256 applies – acceptance was demonstrated through conduct, namely the payment of the deposit. In this case, there was an expressed acceptance.

[25] There was consideration. The plaintiff provided valuable consideration through payment of RM39,555 as evidenced by the official receipt issued by the Government of Malaysia.

[26] There was an intention to create legal relations. The formal nature of the transaction, involving Government land and official documentation, clearly demonstrates the parties' intention to create legal relations. The initial SPA is evidence of the parties' formalising their binding contractual arrangement.

[27] The revised offer dated 13 December 2017 created a superseding contract. Paragraphs 6 and 7 of the revised letter of offer explicitly acknowledged the execution of the initial SPA, stating that the agreement "akan dikemaskini berdasarkan harga belian yang baru". (Will be updated based on the new purchase price). This constitutes an admission by the defendants of the existence of a binding contract.

[28] Applying the principles established by the Federal Court in *Charles Grenier Sdn Bhd v. Lau Wing Hong* [1997] 1 CLJ 625; [1996] 3 MLJ 327; [1996] 2 MLRA 188; [1996] 3 AMR 3533, this court finds that there was a concluded contract despite the absence of a formal executed agreement reflecting the revised terms. The Federal Court held that parties' objective intention, evidenced through their conduct and correspondence, determines whether a binding contract exists. Here, the defendants' own acknowledgment in the revised offer, coupled with their acceptance of the deposit and undertaking to update the agreement, demonstrates clear contractual intent. See also *Ramakrishnan Chelliah v. Lotte Chemical Titan Holding Bhd & Anor* [2020] CLJU 1701 [2020] 1 LNS 1701; [2020] MLJU 1921; [2020] 6 MLRH 580; *Cipta Cermat Sdn Bhd v. Perbandaran Kemajuan Negeri Kedah* [2007] 1 CLJ 498; [2007] 2 MLJ 746; [2007] 1 MLRA 1; *Masters v. Cameron* (1954) 91 CLR 353.

The Defendants' Breach Of Contract

[29] This court finds that the defendants committed multiple breaches of their contractual obligations:

(i) breach of undertaking: the defendants failed to honour their express undertaking in para. 7 of the revised offer to update with a new sale and purchase agreement with the lower revised purchase price. This constitutes a fundamental breach of their own stated obligation. On a balance of probabilities, the defendants had not shown that they had forwarded the updated sale and purchase agreement with the letter of 28 May 2018. This was not merely a procedural oversight, but a fundamental breach of a specific contractual obligation. The defendants had bound themselves to update the initial SPA to reflect the revised purchase price of RM237,330. Their failure to do so constituted a repudiatory breach going to the root of the revised contract;

(ii) procedural failures: the defendants' failure to implement proper delivery procedures for the 28 May 2018 letter, including the absence of acknowledgment requirements and use of different addresses, demonstrates negligent administration inconsistent with their statutory duties under the Federal Lands Commissioner Act 1957. This court holds that the first defendant (and also the second and third defendants, for that matter) owes heightened duties of care and procedural fairness in its dealings with members of the public. The absence of any acknowledgment system that could assist in the finding of facts or even resolve this matter, the address inconsistencies when it was sent to a different address than stated in the initial SPA without verification, the lack of follow-up procedures despite the alleged importance of the documents – all lead to conclude the weakness of the defendants' defence to the plaintiff's case which has established the valid formation of a contract between and the clear, unambiguous contractual obligations that the defendants have obviously failed to carry out; and

(iii) premature termination: the evidence establishes that the termination decision was made on 17 May 2019, months before any alleged breach by the plaintiff could have occurred. This demonstrates the defendants' bad faith and undermines their subsequent justifications. The defendants' termination was both premature and conducted in breach of contractual requirements. On this point, this court finds the defendants' position that the deadline to settle fully the balance of purchase price was 6 September 2019, erroneous. The defendants' revised offer superseded the initial offer, thus, the deadline to settle the balance of the purchase price in full was 18 December 2019. In any event, the defendants were still in error as the termination decision was made on 17 May 2019 which was still months before any deadline. This

premature termination demonstrates that the stated reasons for termination were mere afterthoughts, as confirmed by DW1's testimony that "alasan tak bayar bukanlah alasan sebenarnya".

Invalidity Of The Defendants' Termination

[30] This court finds the termination to be unlawful and invalid on multiple grounds:

(i) failure to comply with s. 47 of the Contracts Act 1950: the defendants failed to provide reasonable notice of any alleged breach or opportunity for remedy. The case of *Summit Domain Sdn Bhd & Anor v. Carillon Sdn Bhd* [2018] 5 CLJ 603; [2018] 11 MLJ 667 establishes that termination without proper notice renders it unlawful. The defendants did not provide reasonable notice to the plaintiff before termination. The 20 December 2019 letter was sent seven months after the termination decision and was never received by the plaintiff. See also *Penang Development Corporation v. Khaw Chin Boo & Anor* [1993] 3 CLJ 167; [1993] 2 MLJ 161;

(ii) temporal impossibility: the termination preceded the due date for performance by approximately seven months (using the revised offer deadline of 18 December 2019), or four months (using the original deadline of 6 September 2019). A party cannot terminate for non-performance before the performance deadline. With only reference to the initial SPA, the plaintiff has 30 days to remedy any alleged breaches after the written notice. Thereafter, there is a minimum of 30 days' notice required for termination (cls. 15.1 and 15.2); and

(iii) no valid grounds: DW1's testimony revealed that the purported grounds for termination were afterthoughts not contemporaneously documented. The 20 December 2019 letter made no mention of the grounds later raised at trial, indicating post-hoc rationalisation. The pleaded defence in para. 14 of the amended defence contradicts the evidence and the position taken by the defendants at trial. The defendants had pleaded that the reason for termination was the plaintiff's failure to return a duly executed sale and purchase agreement forwarded to the plaintiff on 28 August 2017 which was only returned on 6 August 2020. This is erroneous because, as of 28 August 2017, it was the initial offer and not the revised offer made on 13 December 2017 that was accepted on 18 December 2017 which superseded that initial agreement. See *Iftikar Ahmed Khan v. Perwira Affin Bank Bhd* [2018] 1 CLJ 415; [2018] 1 MLRA 202; [2018] 2 MLJ 292; [2017] 8 AMR 517 that affirms the trite legal principle that parties are bound by their own pleadings.

Burden Of Proof

[31] Applying s. 101 of the Evidence Act 1950 and the principles in *Miller v. Minister Of Pensions* [1947] 2 All ER 372, the plaintiff has discharged the burden of proving contract formation through:

(i) documentary evidence of offer, acceptance, and consideration;

(ii) the defendants' own admissions in the revised offer; and

(iii) contemporaneous official receipts confirming payment.

[32] Conversely, the defendants have failed to prove their allegations of breach. In *Ranggong Jenau & Ors v. BLD Resources Sdn Bhd & Ors And Another Case* [2017] CLJU 2164; [2017] 1 LNS 2164; [2017] 5 MLJ 700, the Court of Appeal emphasised that the burden of proof rests throughout on the party asserting the affirmative. The defendants' failure to produce the allegedly unsigned agreement, despite requests for discovery, fatally undermines their case. See also *U Television Sdn Bhd & Anor v. Comintel Sdn Bhd* [2017] 10 CLJ 580; [2017] 5 MLJ 292.

[33] Some important questions about the standard expected of statutory bodies in contractual dealings were raised in this case. Government entities are not exempt from ordinary contract law principles, but are held to higher standards of procedural fairness and administrative propriety. The defendants' conduct falls short of the standards expected of a statutory body entrusted with Government land transactions.

Conclusion

[34] This court finds in favour of the plaintiff on all issues. The evidence establishes that:

(i) a valid and binding contract was formed between the parties;

(ii) the defendants breached their contractual obligations; and

(iii) the purported termination was unlawful and invalid.

[35] The plaintiff is entitled to the reliefs sought. Justice requires that the plaintiff be granted the declaratory relief sought, with damages to be assessed separately to compensate for the losses suffered as a result of the defendants' unlawful conduct.

Assessment Of Damages

[36] At trial, aside from the loss of enjoyment of owning the land, the plaintiff adduced evidence that he had experienced mental distress and significant health issues. The plaintiff testified that he has been medically certified as suffering from a depressive disorder, acute depression, which is severe and serious.

[37] In addition, he claimed that he suffers from various other chronic health issues as a result of anxiety and depression, namely chronic GERD disease for many years. According to the plaintiff, all this happened because of this case that had caused him to live in fear, feeling persecuted, deceived, until it culminated in him suffering a heart attack at the end of last year.

[38] The plaintiff testified that in 2018, an officer of the defendants threatened him that should he pursue this matter, the Prime Minister's office would take action against him in the same manner as was done to Dato Seri Najib Razak and his family. He claimed that, as a result of that, he lived in torment and was compelled to undergo a third heart procedure last year.

[39] The plaintiff did not produce any doctor's report or medical bills to corroborate his claim and to show this court the high medical expenses he claimed to have been borne. Through the plaintiff's cross-examination, this court notes that the defendants challenged these claims by emphasising that there were no medical reports produced by the plaintiff. Neither was there evidence adduced to strengthen the plaintiff's claim that he was threatened; no police report was lodged, nor was there other independent or contemporaneous supportive evidence.

[40] This court must apply s. 74(1) of the Contracts Act 1950, which provides that when a contract has been breached, the party who suffers by such breach is entitled to receive compensation for any loss or damage caused to him thereby as cited by the plaintiff's counsel, this provision entitles a party to compensation for any loss or damage where there has been a breach of contract.

[41] The plaintiff has pleaded specific particulars of loss in para. 18.1 of the amended statement of claim, namely "loss of enjoyment of the subject property". The plaintiff also claims mental distress and significant health issues arising from the breach. The plaintiff testified that he suffered from depressive disorder, chronic GERD disease, and other health issues allegedly resulting from this dispute, culminating in a heart attack. However, the plaintiff failed to adduce any medical reports, psychiatric assessments, or medical bills to corroborate these claims. No contemporaneous supportive evidence was provided.

[42] Applying the burden of proof principles established in *Miller v. Minister of Pensions* [1947] 2 All ER 372, as cited by the defendants, the evidence must carry a reasonable degree of probability. Without medical evidence, this court cannot make any award for alleged medical consequences.

[43] The plaintiffs pleaded "loss of enjoyment of the subject property" represents his claim for expectation damages arising from the breach. As referenced in the plaintiff's submissions citing *Steadman v. Steadman* [1974] 2 All ER 977; *Branca v. Cobarro* [1947] 1 KB 854, and *Von Hatzfeldt-Wildenburg v. Alexander* [1912] 1 Ch 284, these authorities establish that legitimate contractual expectations merit protection.

[44] However, no current market valuation evidence was tendered to this court for the land. The absence of market valuation evidence presents this court with the challenge of determining appropriate compensation for the plaintiff's loss.

[45] In the absence of market valuation evidence, this court must determine damages based on the available evidence. The contractual price of RM237,330 under the revised contract represents the agreed value between the parties. This court finds that the plaintiff has been deprived of the opportunity to acquire property worth RM237,330 due to the defendants' wrongful breach. The plaintiff's legitimate expectation was that he would obtain ownership of the land for the agreed revised price, as evidenced by his payment of deposit and acceptance of the revised offer.

[46] This court's decision takes into account the absence of medical evidence to support psychiatric injury claims, the lack of market valuation evidence, the agreed contractual value representing the parties' assessment of the land's worth and the application of s. 74(1) of the Contracts Act 1950.

[47] Hence, this court awards general damages of RM237,330 to compensate the plaintiff for his loss arising from the defendants' breach of contract.

Orders Of This Court

[48] Based on the evidence and the assessment as stated above with the application of the relevant laws, this court finds that the plaintiff has proven his claim on a balance of probabilities. Therefore, this court's orders are as follows:

(i) the first, second and third defendants have breached the revised sale and purchase agreement pertaining to the land;

(ii) the first, second and third defendants have wrongfully terminated the revised sale and purchase agreement pertaining to the land;

(iii) the first, second and third defendants return the deposit paid of RM39,550 to the plaintiff forthwith;

(iv) the first, second and third defendants pay to the plaintiff general damages in the sum of RM237,330;

(v) interest of 5% per annum on the judgment sums awarded by this court from the date of this judgment until full and final settlement; and

(vi) costs of this proceeding are awarded to the plaintiff. The first, second and third defendants are to pay costs of RM20,000, subject to allocator.